

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

NOVIA COMMUNICATIONS, LLC,	:	Case No. 3:16-CV-00587
	:	
Plaintiff,	:	Judge Jeffrey J. Helmick
	:	
-vs-	:	CONSENT JUDGMENT ON
	:	COUNTS V, VI AND VII, CONSENT
JESSE WEATHERBY, et al.,	:	ORDER VACATING STIPULATED
	:	ORDER OF MAY 10, 2016, STIPULATED
Defendants.	:	ORDER OF DISMISSAL WITHOUT
	:	PREJUDICE OF COUNTS IV, VIII AND
	:	IX AND REQUEST FOR RULE 54(b)
	:	<u>CERTIFICATION</u>

* * *

This matter is before the Court on the Joint Motion of All Parties Requesting Consent Judgment, Vacation of May 10, 2016 Stipulated Order, Stipulated Order of Dismissal Without Prejudice of Counts IV, VIII and IX and Rule 54(b) Certification. Upon due consideration, this Court grants the parties' above-described Joint Motion and further ORDERS, ADJUDGES AND DECREES as follows:

I. CONSENT JUDGMENT ON COUNTS V, VI AND VII.

1. Judgment as to Count V (Breach of August 21, 2013 Promissory Note). As to Count V of Novia's Complaint, CBG is liable to Novia in the principal amount of \$125,000.00, plus \$70,511.38 in interest through March 11, 2019, plus continuing interest at 9.0% per annum (as provided in ¶ 2 of the Note) through the date this Consent Judgment is entered; plus postjudgment interest at the federal statutory rate.

2. Judgment as to Count VI (Breach of October 1, 2014 Promissory Note). As to Count VI of Novia's Complaint, CBG is liable to Novia in the principal amount of \$10,525.00, plus \$3,718.90 in interest through March 11, 2019, plus continuing interest at 8.0% per annum (as provided in ¶ 1 of the Note) through the date this Consent Judgment is entered; plus postjudgment interest at the federal statutory rate.

3. Judgment as to Count VII (Breach of August 31, 2014 Promissory Note). As to Count VII of Novia's Complaint, Orion is liable to Novia in the principal amount of \$17,500.00, plus \$5,998.25 in interest through March 11, 2019, plus continuing interest at 8.0% per annum (as provided in ¶ 1 of the Note) through the date this Consent Judgment is entered, plus postjudgment interest at the federal statutory rate.

II. VACATION OF STIPULATED ORDER OF MAY 10, 2016.

On May 10, 2016, this Court entered a Stipulated Order (Doc. #14) that, with the consent of all parties, adopted an Escrow Agreement attached as Exhibit A to such Stipulated Order. All parties now stipulate to the vacation of such Order and Escrow Agreement. Such Order is now vacated.

**III. STIPULATED ORDER OF DISMISSAL WITHOUT PREJUDICE
AS TO COUNTS IV, VIII AND IX.**

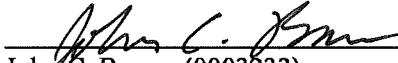
Counts IV (Constructive Trust), VIII (Tortious interference with business relationship) and IX (Fraud) of Novia's Complaint are dismissed *without prejudice*. Novia shall have the right to reassert the claims described in Counts VIII and IX within 90 days of the termination of any appeal taken as to Counts I, II, or III, notwithstanding any statute of limitations or other time-related defense that might otherwise be available to Defendants.

IV. RULE 54(b) CERTIFICATION ON PRIOR JUDGMENTS ON COUNTS I, II AND III.

On September 27, 2017, this Court granted summary judgment in favor of Novia on Counts I (Breach of Asset Purchase Agreement), II (Specific Performance), and III (Declaratory Relief) (Doc. #24-25). The Court denied CBG and Weatherby's Cross-Motion for Summary Judgment (*Id.*). Defendants moved for reconsideration (Doc. #26) and, on February 19, 2019, the Court granted Defendants' Motion for Reconsideration (Doc. #33-34). The February 19, 2019 Memorandum, Opinion and Judgment Entry provided for judgment in favor of Defendants on Counts I, II and III of Novia's Complaint (*Id.*).

This Court now certifies, pursuant to Fed. R. Civ. P. 54(b), that its September 27, 2017 and February 19, 2019 Memorandum Opinions and Judgment Entries constitute final judgments as to Counts I, II and III, and that there is no just reason for any delay of an appeal on said judgments.

AGREED AND STIPULATED:


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IT IS SO ORDERED:

Hon. Jeffrey J. Helmick
United States District Judge